

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA**

Docket No. 2003-326-C

IN RE:	)	
	)	
Analysis of Continued Availability	)	<b>KMC TELECOM III, LLC'S</b>
Of Unbundled Local Switching for	)	<b>PRELIMINARY OBJECTIONS</b>
Mass Market Customers Pursuant	)	<b>TO BELL SOUTH'S FIRST SET</b>
To the Federal Communication	)	<b>OF INTERROGATORIES</b>
Commission's Triennial Review Order	)	
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KMC Telecom III, LLC ("KMC"), pursuant to the South Carolina Public Service Commission's ("Commission") Rules of Practice and Procedure and the South Carolina Code of Civil Procedure hereby generally and specifically objects to BellSouth Telecommunications, Inc.'s (hereinafter "BellSouth") First Set of Interrogatories to KMC, served on November 17, 2003. The Objections stated herein are preliminary in nature and are made at this time for the purpose of complying with the 10-day requirement set forth in the Joint Motion for Initial Procedural Order filed by BellSouth and CompSouth on November 12, 2003.

A. General Objections

KMC makes the following General Objections to BellSouth's First Set of Interrogatories, including the applicable definitions and general instructions therein ("BellSouth discovery"), which as appropriate will be incorporated into each relevant response when KMC's responses are served on BellSouth.

1. KMC objects to the BellSouth discovery to the extent that such discovery seeks to impose an obligation on KMC to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such discovery is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. KMC further objects to any and all

BellSouth discovery that seeks to obtain information from KMC or KMC subsidiaries, affiliates, or other related KMC entities that are not certificated by the Commission.

2. KMC has interpreted the BellSouth discovery to apply to KMC's regulated intrastate operations in South Carolina and will limit its responses accordingly. To the extent that any BellSouth discovery is intended to apply to matters that take place outside the state of South Carolina and which are not related to South Carolina intrastate operations subject to the jurisdiction of the Commission, KMC objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive.

3. KMC objects to the BellSouth discovery to the extent that such discovery calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or any other applicable privilege.

4. KMC objects to the BellSouth discovery insofar as such discovery is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Any responses provided by KMC in response to the BellSouth discovery will be provided subject to, and without waiver of, the foregoing objection.

5. KMC objects to the BellSouth discovery insofar as such discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action.

6. KMC objects to the BellSouth discovery insofar as it seeks information or documents, or seeks to impose obligations on KMC which exceed the requirements of the rules and regulations of the South Carolina Public Service Commission, the South Carolina Rules of Civil Procedure, or other applicable statutes, rules and legal requirements.

7. KMC objects to providing information to the extent that such information is already in the public record before the South Carolina Public Service Commission or is already in the possession, custody or control of BellSouth.

8. KMC objects to the BellSouth discovery to the extent that such discovery is overly broad, unduly burdensome, expensive, oppressive, or excessively time consuming as written.

9. KMC objects to each and every request to the extent that the information requested constitutes "trade secrets" under the rules and regulations of the South Carolina Public Service Commission, the South Carolina Code of Civil Procedure, or other South Carolina law. To the extent that BellSouth's requests seek proprietary confidential business information which is not the subject of the "trade secrets" privilege, KMC will make such information available for counsel for BellSouth pursuant to the BellSouth/CompSouth proposed Joint Protective Order, subject to any other general or specific objections contained herein.

10. KMC is a large corporation with employees located in many different locations in South Carolina and in other states. In the course of its business, KMC creates countless documents that are not subject to South Carolina Public Service Commission or FCC retention of records requirements. These documents are kept in numerous locations and are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document that has been identified in response to these requests. KMC will conduct a reasonable and diligent search of those files that are reasonably expected to contain the requested information. To the extent that the BellSouth discovery purports to require more, KMC objects on the grounds that compliance would impose an undue burden or expense.

11. KMC objects to the BellSouth discovery that seeks to obtain "all," "each," or "every" document, item, customer, or other such piece of information to the extent that such discovery is

overly broad and unduly burdensome. Any answers that KMC may provide in response to the BellSouth discovery will be provided subject to, and without waiver of, this objection.

12. KMC objects to the BellSouth discovery to the extent such discovery seeks to have KMC create documents not in existence at the time of the request.

13. KMC objects to the BellSouth discovery to the extent such discovery is not limited to any stated period of time or a stated period of time that is longer than is relevant for purposes of the issues in this docket, as such discovery is overly broad and unduly burdensome.

14. In light of the short period of time KMC has been afforded to respond to the BellSouth discovery, the development of KMC's positions and potentially responsive information to the BellSouth requests is necessarily ongoing and continuing. This process is further complicated since at this point in time, the actual issues to be set forth for hearing in this docket have not yet been established by order of the Commission. Accordingly, these are preliminary objections to comply with the Joint Motion for Initial Procedural Order filed by BellSouth and CompSouth on November 12, 2003. KMC reserves the right to supplement, revise, or modify its objections at the time that it serves its actual responses to the BellSouth discovery. However, KMC does not assume an affirmative obligation to supplement its answers on an ongoing basis, contrary to the BellSouth General Instructions.

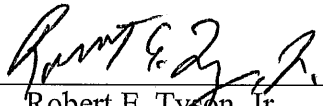
B. Specific Objections

KMC makes the following Specific Objections to BellSouth's First Set of Interrogatories including the applicable definitions and general instructions expressed therein, which as appropriate will be incorporated into each relevant response when KMC's responses are served on BellSouth.

15. Outside of the discovery request served by BellSouth on November 17, 2003, there have been discussions between BellSouth and some of the Competitive Local Exchange Carriers

("CLECs") that this discovery is "regional" in nature and that BellSouth would prefer that the CLECs respond on a regional basis without additional service in these other states. At this point in time, without necessarily agreeing or disagreeing with BellSouth's request for regional answers, KMC reserves its rights to object to providing responsive information for states other than South Carolina. Further, in the event KMC does provide responsive information for states other than South Carolina pursuant to the November 17, 2003, discovery in this South Carolina docket, KMC reserves its rights to not provide such non-South Carolina information in the above-captioned South Carolina case. Finally, in the event KMC does provide information for states other than South Carolina pursuant to the November 17, 2003, discovery in this South Carolina docket, KMC reserves its rights to provide such non-South Carolina information on a schedule other than that which is specified in any procedural order issued by the Commission.

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December 1, 2003

**CERTIFICATE OF SERVICE**

I, the undersigned paralegal of the law offices of Sowell Gray Stepp & Laffitte, L.L.C., attorneys for KMC Telecom III, LLC, do hereby certify that I have a copy of the pleading(s) hereinbelow specified via e-mail to the following address(es):

**Pleadings:** **KMC's Preliminary Objections to BellSouth's First Set of Interrogatories**

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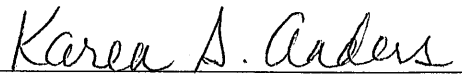
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